

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KASPER LAMAR DOBBS,  
ROBERT WILSON, JR.

Defendants.

No. CR 04-1004 LRR

**FINAL JURY INSTRUCTIONS**

Ladies and Gentlemen of the Jury:

The instructions I gave you at the beginning of the trial and during the trial remain in effect. I will now give you some additional instructions.

You must, of course, continue to follow the instructions I gave you earlier, as well as those I give you now. You must not single out some instructions and ignore others, because all are important. This is true even though some of those I gave you at the beginning of and during trial are not repeated here.

The instructions I am about to give you now are in writing and will be available to you in the jury room. I emphasize, however, that this does not mean they are more important than my earlier instructions. Again, all instructions, whenever given and whether in writing or not, must be followed.

**INSTRUCTION NUMBER \_\_\_\_\_**

In considering these instructions, attach no importance or significance whatsoever to the order in which they are given.

**INSTRUCTION NUMBER \_\_\_\_\_**

Neither in these instructions nor in any ruling, action, or remark that I have made during this trial have I intended to give any opinion or suggestion as to what the facts are or what your verdict should be.

**INSTRUCTION NUMBER \_\_\_\_\_**

It is your duty to find from the evidence what the facts are. You will then apply the law, as I give it to you, to those facts. You must follow my instructions on the law, even if you thought the law was different or should be different.

Do not allow sympathy or prejudice to influence you. The law demands of you a just verdict, unaffected by anything except the evidence, your common sense, and the law as I give it to you.

## **INSTRUCTION NUMBER \_\_\_\_\_**

I have mentioned the word “evidence.” The “evidence” in this case consists of the following: the testimony of the witnesses, the documents and other things received as exhibits, and stipulations, that is, agreements between the parties that certain facts are as they have stated.

You may use reason and common sense to draw deductions or conclusions from facts which have been established by the evidence in the case.

Certain things are not evidence. I shall list those things again for you now:

1. Statements, arguments, questions, and comments by the lawyers are not evidence.

2. Objections are not evidence. The parties have a right to object when they believe something is improper. You should not be influenced by the objection. If I sustained an objection to a question, you must ignore the question and must not try to guess what the answer might have been.

3. Testimony that I struck from the record, or told you to disregard, is not evidence and must not be considered.

4. Anything you saw or heard about this case outside the courtroom is not evidence.

Finally, if you were instructed that some evidence was received for a limited purpose only, you must follow that instruction.

**INSTRUCTION NUMBER \_\_\_\_\_**

There are two types of evidence from which a jury may properly find the truth as to the facts of a case: direct evidence and circumstantial evidence. Direct evidence is the evidence of the witness to a fact or facts of which they have knowledge by means of their senses. The other is circumstantial evidence—the proof of a chain of circumstances pointing to the existence or nonexistence of certain facts. The law makes no distinction between direct and circumstantial evidence. You should give all evidence the weight and value you believe it is entitled to receive.

**INSTRUCTION NUMBER \_\_\_\_\_**

The jurors are the sole judges of the weight and credibility of the testimony and the value to be given to each witness who has testified in this case. In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness said, or only part of it, or none of it.

In deciding what testimony to believe, consider the witness's intelligence, the opportunity the witness had to have seen or heard the things testified about, the witness's memory, any motives that witness may have for testifying a certain way, the manner of the witness while testifying, whether that witness said something different at an earlier time, the general reasonableness of the testimony, and the extent to which the testimony is consistent with any evidence that you believe.

In deciding whether or not to believe a witness, keep in mind that people sometimes hear or see things differently and sometimes forget things. You need to consider, therefore, whether a contradiction is an innocent misrecollection or lapse of memory or an intentional falsehood, and that may depend on whether it has to do with an important fact or only a small detail.

**INSTRUCTION NUMBER \_\_\_\_**

In the previous instruction, I instructed you generally on the credibility of witnesses. I now give you this further instruction on how the credibility of a witness can be “impeached” and how you are to consider the testimony of certain witnesses.

A witness may be discredited or impeached by contradictory evidence; by a showing that the witness testified falsely concerning a material matter; by showing the witness has a motive to be untruthful; or by evidence that at some other time the witness has said or done something, or has failed to say or do something, that is inconsistent with the witness’s present testimony.

You have heard evidence that certain witnesses were once convicted of a crime. You may use that evidence only to help you decide whether to believe the witness and how much weight to give that witness’s testimony.



**INSTRUCTION NUMBER \_\_\_\_**

The government and the defendants have stipulated—that is, they have agreed—that certain facts are as they have stated. You must therefore treat those facts as having been proved.

**INSTRUCTION NUMBER \_\_\_\_\_**

Exhibits have been admitted into evidence and are to be considered along with all the other evidence to assist you in reaching a verdict. You are not to tamper with the exhibits or their contents, and each exhibit should be returned into open court, along with your verdict, in the same condition as it was received by you.

**INSTRUCTION NUMBER \_\_\_\_**

As you know, there are two defendants on trial here: Kasper Lamar Dobbs, and Robert Wilson, Jr. Each defendant is entitled to have his case decided solely on the evidence which applies to him. Some of the evidence in this case is limited under the rules of evidence to one of the defendants, and cannot be considered against the others.

The testimony regarding Kasper Lamar Dobbs's statement can be considered only in the case against him. What that means is that you may consider defendant Kasper Lamar Dobbs's statement in the case against him and for that purpose rely on it as much or as little as you think proper, but you may not consider or discuss that statement in any way when you are deciding if the government has proved, beyond a reasonable doubt, its case against Robert Wilson, Jr.

**INSTRUCTION NUMBER \_\_\_\_**

You have heard testimony from persons described as experts. Persons who, by knowledge, skill, training, education or experience, have become expert in some field may state their opinions on matters in that field and may also state the reasons for their opinion.

Expert testimony should be considered just like any other testimony. You may accept or reject it, and give it as much as weight as you think it deserves, considering the witness's education and experience, the soundness of the reasons given for the opinion, the acceptability of the methods used, and all the other evidence in the case.

**INSTRUCTION NUMBER \_\_\_\_\_**

A reasonable doubt is a doubt based upon reason and common sense, and not the mere possibility of innocence. A reasonable doubt is the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it. However, proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

**INSTRUCTION NUMBER \_\_\_\_\_**

The Indictment in this case consists of four charged offenses.

Count 1 of the Indictment charges that on or about May 22, 2003, Kasper Lamar Dobbs and Robert Wilson, Jr. did unlawfully obstruct, delay and affect, the movement of articles and commodities in commerce, by robbery.

Count 2 of the Indictment charges that on or about May 22, 2003, Kasper Lamar Dobbs and Robert Wilson, Jr. did knowingly use and carry a firearm, and did aid and abet the use and carrying of a firearm, specifically, a handgun, during and in relation to a federal crime of violence prosecutable in a United States court, that is, interference with commerce by robbery as charged in Count 1.

Count 3 of the Indictment charges that on or about May 22, 2003, Robert Wilson, Jr., having been convicted of one or more felony offenses punishable by imprisonment for a term exceeding one year, did knowingly possess, in and affecting commerce, a firearm, specifically, a handgun.

Count 4 of the Indictment charges that on or about May 22, 2003, Kasper Lamar Dobbs, having been convicted of one or more felony offenses punishable by imprisonment for a term exceeding one year, did knowingly possess, in and affecting commerce, a firearm, specifically, a handgun.

Each defendant has pleaded not guilty to each crime with which he is charged.

As I told you at the beginning of the trial, an Indictment is simply an accusation. It is not evidence of anything. To the contrary, each defendant is presumed to be innocent.

**(CONTINUED)**

**INSTRUCTION NUMBER \_\_\_\_\_ (Cont'd)**

Thus each defendant, even though charged, begins the trial with no evidence against him. The presumption of innocence alone is sufficient to find a defendant not guilty and can be overcome only if the government proves, beyond a reasonable doubt, each essential element of a particular crime charged.

Keep in mind that you must give separate consideration to the evidence about each individual defendant. Each defendant is entitled to be treated separately, and you must return a separate verdict for each defendant. Also keep in mind that you must consider, separately, each crime charged against each individual defendant, and must return a separate verdict for each of those crimes charged.

There is no burden upon the defendants to prove that they are innocent. Accordingly, the fact that a defendant did not testify must not be considered by you in any way, or even discussed, in arriving at your verdict.

**INSTRUCTION NUMBER \_\_\_\_**

Count 1 of the Indictment charges that on or about May 22, 2003, Kasper Lamar Dobbs and Robert Wilson, Jr. did unlawfully obstruct, delay and affect commerce, the movement of articles and commodities in such commerce, by robbery. The defendant under consideration by you may be found guilty of this offense under one or both of the following two alternatives: (a) personally committing the offense; and (2) aiding and abetting the commission of the offense.

***First Alternative:***

***Personal, Knowing Interference with Commerce by Robbery***

The crime of personally and knowingly interfering with commerce by robbery as charged in Count 1 of the Indictment, has three essential elements, which are:

- One,* on or about May 22, 2003, the defendant under consideration by you knowing and willfully took personal property from an employee of the West Locust Mart in Dubuque, Iowa;
- Two,* the defendant under consideration by you took this property against the victim's will through the wrongful use of actual or threatened force, or violence, or fear of injury, whether immediate or in the future, to her person or to property in her custody as an employee of the West Locust Mart in Dubuque, Iowa; and
- Three,* the actions of the defendant under consideration by you obstructed, delayed, or affected commerce in some way or degree.

If you find all of these essential elements have been proved beyond a reasonable doubt, then you must find the defendant under consideration by you guilty of the crime charged under Count 1 under this "personal commission" alternative; otherwise you must find the defendant under consideration by you not guilty of personally and knowingly interfering with commerce by robbery.

**(CONTINUED)**



INSTRUCTION NUMBER \_\_\_\_ (Cont'd)

***Second Alternative:  
Aiding and Abetting the Interference with Commerce by Robbery***

A person may also be found guilty of interfering with commerce by robbery even if he personally did not do every act constituting the offense charged, if he aided and abetted the commission of the offense.

In order to have aided and abetted the commission of this crime, the defendant under consideration by you must:

- One,* have known that the crime of interfering with commerce by robbery was being committed or was going to be committed;
- Two,* have knowingly acted in some way for the purpose of causing, encouraging or aiding the commission of interference with commerce by robbery;
- Three,* have taken action that obstructed, delayed, or affected commerce in some way or degree.

If you find all of these essential elements have been proved beyond a reasonable doubt, then you must find the defendant under consideration by you guilty of the crime charged under Count 1 under this “aiding and abetting” alternative; otherwise you must find the defendant under consideration by you not guilty of aiding and abetting the interference with commerce by robbery.

**INSTRUCTION NUMBER \_\_\_\_**

In considering whether the government has met its burden of proving the crime charged in Count 1 of the Indictment, you are further instructed as follows:

“Commerce” as used in these instructions means interstate commerce; that is commerce between any place in a state and any place outside of that state.

The term "obstructed, delayed or affected commerce" means any action which, in any manner or to any degree interferes with, changes, or alters the movement or transportation or flow of goods, merchandise, money, or other property in interstate commerce.

In considering the third essential element of the crime of interfering with commerce by robbery, you must decide whether there is an actual effect on commerce between any two or more states. If you decide that there was any effect at all on interstate commerce, then that is enough to satisfy this element. The effect can be minimal.

However, if the defendant under consideration by you had finished his actions, and done all he intended to do, and you determine there would have been no effect on interstate commerce, then you cannot find that defendant guilty.

**INSTRUCTION NUMBER \_\_\_\_**

Count 2 of the Indictment charges that on or about May 22, 2003, Kasper Lamar Dobbs and Robert Wilson, Jr. did knowingly use and carry a firearm and did aid and abet the use and carrying of a firearm, specifically, a handgun, during and in relation to a federal crime of violence prosecutable in a United States court, that is, interference with commerce by robbery as charged in Count 1. The defendant under consideration by you may be found guilty of this offense under one or both of the following two alternatives: (1) personally committing the offense; and (2) aiding and abetting the commission of the offense.

***First Alternative:***

***Personal, Knowing Use and Carrying of a Firearm in Relation to a Crime of Violence***

The crime of personally and knowingly using and carrying a firearm during and in relation to a crime of violence prosecutable in a United States court as charged in Count 2 of the Indictment has two essential elements, which are:

- One,* on or about May 22, 2003, the defendant under consideration by you committed the crime of interference with commerce by robbery; and
- Two,* during and in relation to the commission of that crime, the defendant under consideration by you knowingly used or carried a firearm.

If both of the essential elements have been proved beyond a reasonable doubt, then you must find the defendant under consideration by you guilty of the crime charged under Count 2 under this “personal commission” alternative; otherwise you must find the defendant under consideration by you not guilty of personally and knowingly using and carrying a firearm during and in relation to a crime of violence prosecutable in a United States court.

**(CONTINUED)**

INSTRUCTION NUMBER \_\_\_\_ (Cont'd)

***Second Alternative:  
Aiding and Abetting the Use and Carrying of a Firearm in Relation to a Crime of  
Violence***

A person may also be found guilty of using or carrying a firearm during and in relation to a crime of violence even if he personally did not do every act constituting the offense charged, if he aided and abetted the commission of the offense.

In order to have aided and abetted the commission of this crime, a person must:

- One,* have known that the crime of using or carrying a firearm during a crime of violence was being committed or was going to be committed; and
- Two,* have knowingly acted in some way for the purpose of causing, encouraging or aiding the commission of the unlawful use of the firearm.

For you to find the defendant under consideration by you guilty of the crime of using or carrying a firearm during and in relation to a crime of violence prosecutable in a United States court by reason of aiding and abetting, the government must prove beyond a reasonable doubt that all of the essential elements of the crime of using or carrying a firearm during and in relation to a crime of violence prosecutable in an United States court were committed by some person or persons and that the defendant under consideration by you aided and abetted the commission of the crime of using or carrying a firearm during and in relation to a crime of violence prosecutable in an United States court.

If all of these essential elements have been proved beyond a reasonable doubt, then you must find the defendant guilty of the crime charged under Count 2 under this “aiding and abetting” alternative; otherwise you must find the defendant not guilty of aiding and abetting the knowing using and carrying of a firearm during and in relation to a crime of violence prosecutable in a United States court.

**INSTRUCTION NUMBER \_\_\_\_**

In considering whether the government has met its burden of proving the crime charged in Count 2 of the Indictment, you are further instructed as follows:

The phrase “used a firearm” means that the firearm was actively employed in the course of the commission of the crime of knowingly using and carrying a firearm, and aiding and abetting the use and carrying of a firearm, specifically, a handgun, during and in relation to a crime of violence prosecutable in a United States court. You may find that a firearm was used during the commission of the crime if you find that it was brandished or displayed.

**INSTRUCTION NUMBER \_\_\_\_**

Counts 1-2 charge as an alternative that the defendants “aided and abetted.” You should understand that merely being present at the scene of an event, or merely acting in the same way as others or merely associating with others, does not prove that a person has become an aider and abettor. A person who has no knowledge that a crime is being committed or about to be committed, but who happens to act in a way which advances some offense, does not thereby become an aider and abettor.

**INSTRUCTION NUMBER \_\_\_\_**

The crime of being a felon in knowing possession of a firearm in and affecting commerce as charged in Counts 3 and 4 of the Indictment has three essential elements, which are:

- One,* the defendant under consideration by you [Robert Wilson, Jr. - Count 3; Kasper Lamar Dobbs - Count 4] was convicted of a felony, that is a crime punishable by imprisonment for a term exceeding one year;
- Two,* the defendant under consideration by you thereafter knowingly possessed a firearm, that is a handgun; and
- Three,* at some time prior to his possession of the firearm, the firearm was transported across a state line.

If all of these essential elements have been proved beyond a reasonable doubt, then you must find the defendant under consideration by you (Robert Wilson, Jr. - Count 3; Kasper Lamar Dobbs - Count 4) guilty of the crime of being a felon in possession of a firearm in and affecting commerce; otherwise you must find the defendant under consideration by you not guilty.

**INSTRUCTION NUMBER \_\_\_\_**

In considering whether the government has met its burden of proving the crime charged in Counts 3 and 4 of the Indictment, you are further instructed as follows:

In considering the first essential element of the crime of being a felon in possession of a firearm in and affecting commerce, you are instructed the parties have stipulated that each defendant, Kasper Lamar Dobbs and Robert Wilson, Jr., has a conviction for a crime which is punishable by imprisonment for more than one year. You are to consider the parties' stipulation for this purpose only.

It is not necessary for the government to prove the defendant under consideration by you knew that the firearm charged in the Indictment had traveled in interstate commerce, he himself personally transported the firearm in interstate commerce, or that he intended to violate a particular statute. Likewise, it is not necessary for the government to prove that the defendant under consideration by you knew that it was illegal to have the firearm in his possession within the meaning of the law. Nor is it necessary for the government to prove who owned the firearm at any time. The statute involved speaks in terms of possession, not ownership.



**INSTRUCTION NUMBER \_\_\_\_**

The term "firearm" means any weapon (including a starter gun) which will or is designed to or may be readily converted to expel a projectile by the action of an explosive.

**INSTRUCTION NUMBER \_\_\_\_**

The law recognizes several kinds of possession. A person may have actual possession or constructive possession. A person may have sole or joint possession.

A person who knowingly has direct physical control over a thing, at a given time, is then in “actual possession” of it.

A person who, although not in actual possession, knowingly has both the power and the intention at a given time to exercise dominion or control over a thing, either directly or through another person or persons, is then in “constructive possession” of it.

If one person alone has actual or constructive possession of a thing, possession is “sole.” If two or more persons share actual or constructive possession of a thing, possession is “joint.”

Whenever the word “possession” has been used in these instructions it includes “actual” as well as “constructive” possession and also “sole” as well as “joint” possession.

**INSTRUCTION NUMBER \_\_\_\_\_**

You will note the Indictment charges that the offenses were committed “on or about” certain dates. The government need not prove with certainty the exact date or the exact time period of an offense charged. It is sufficient if the evidence established that an offense occurred within a reasonable time of the date or period of time alleged in the Indictment.

**INSTRUCTION NUMBER\_\_\_\_\_**

An act is done “knowingly” if a defendant realized what he was doing and did not act through ignorance, mistake or accident. The government is not required to prove that a defendant knew that his acts or omissions were unlawful. You may consider the evidence of a defendant’s acts and words, along with all other evidence, in deciding whether a defendant acted knowingly.

**INSTRUCTION NUMBER \_\_\_\_\_**

Intent may be proven by circumstantial evidence. It rarely can be established by other means. While witnesses may see or hear and thus be able to give direct evidence of what a person does or fails to do, there can be no eyewitness account of the state of mind with which the acts were done or omitted. But what a defendant does or fails to do may indicate intent or lack of intent to commit an offense.

You may consider it reasonable to draw the inference and find that a person intends the natural and probable consequences of acts knowingly done, but you are not required to do so. As I have said, it is entirely up to you to decide what facts to find from the evidence.

**INSTRUCTION NUMBER \_\_\_\_\_**

Throughout the trial, you have been permitted to take notes. Your notes should be used only as memory aids, and you should not give your notes precedence over your independent recollection of the evidence.

In any conflict between your notes, a fellow juror's notes, and your memory, your memory must prevail. Remember that notes sometimes contain the mental impressions of the note taker and can be used only to help you recollect what the testimony was. At the conclusion of your deliberations, your notes should be left in the jury room for destruction.

**INSTRUCTION NUMBER \_\_\_\_\_**

In conducting your deliberations and returning your verdict, there are certain rules you must follow. I shall list those rules for you now.

*First*, when you go to the jury room, you must select one of your members as your foreperson. That person will preside over your discussions and speak for you here in court.

*Second*, it is your duty, as jurors, to discuss this case with one another in the jury room. You should try to reach an agreement if you can do so without violence to individual judgment, because a verdict—whether guilty or not guilty—must be unanimous.

Each of you must make your own conscientious decision, but only after you have considered all the evidence, discussed it fully with your fellow jurors, and listened to the views of your fellow jurors.

Do not be afraid to change your opinions if the discussion persuades you that you should. But do not come to a decision simply because other jurors think it is right, or simply to reach a verdict.

*Third*, if a defendant is found guilty, the sentence to be imposed is my responsibility. You may not consider punishment in any way in deciding whether the government has proved its case beyond a reasonable doubt.

**(CONTINUED)**

**INSTRUCTION NUMBER \_\_\_\_\_ (Cont'd)**

*Fourth*, if you need to communicate with me during your deliberations, you may send a note to me through the marshal or court security officer, signed by one or more jurors. I will respond as soon as possible either in writing or orally in open court. Remember that you should not tell anyone—including me—how your votes stand numerically.

*Finally*, your verdict must be based solely on the evidence and on the law which I have given to you in my instructions. The verdict, whether guilty or not guilty, must be unanimous. Nothing I have said or done is intended to suggest what your verdict should be—that is entirely for you to decide.



**INSTRUCTION NUMBER \_\_\_\_\_**

Attached to these instructions you will find six Verdict Forms. The Verdict Forms are simply the written notice of the decision that you reach in this case. The answer to each Verdict Form must be the unanimous decision of the jury.

You will take these Verdict Forms to the jury room, and when you have completed your deliberations and each of you has agreed on an answer to each Verdict Form, your foreperson will fill out each Form, sign and date it, and advise the marshal or court security officer that you are ready to return to the courtroom.

Finally, members of the jury, take this case and give it your most careful consideration, and then without fear or favor, prejudice or bias of any kind, return such verdict as accords with the evidence and these instructions.

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**LINDA R. READE  
JUDGE, U. S. DISTRICT COURT**

We, the Jury, find the defendant, Kasper Lamar Dobbs, \_\_\_\_\_ of the  
Not Guilty/Guilty  
crime of interference with commerce by robbery on or about May 22, 2003, as charged in  
Count 1 of the Indictment.

DATE

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KASPER LAMAR DOBBS,  
ROBERT WILSON, JR.

Defendants.

No. CR 04-1004 LRR

**VERDICT FORM - COUNT 2  
KASPER LAMAR DOBBS**

We, the Jury, find the defendant, Kasper Lamar Dobbs, \_\_\_\_\_ of the  
Not Guilty/Guilty  
crime of knowingly using and carrying a firearm, and aiding and abetting the use and  
carrying of a firearm, specifically, a handgun, during and in relation to a crime of violence  
prosecutable in a United States court, that is, interference with commerce by robbery, on  
or about May 22, 2003, as charged in Count 2.

\_\_\_\_\_  
FOREPERSON

\_\_\_\_\_  
DATE

DATE \_\_\_\_\_

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KASPER LAMAR DOBBS,  
ROBERT WILSON, JR.

Defendants.

No. CR 04-1004 LRR

**VERDICT FORM - COUNT 3  
ROBERT WILSON, JR.**

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We, the Jury, find the defendant, Robert Wilson, Jr., \_\_\_\_\_ of the  
Not Guilty/Guilty  
crime of being a felon in knowing possession of a firearm in and affecting commerce on or  
about May 22, 2003, as charged in Count 3.

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FOREPERSON

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DATE

We, the Jury, find the defendant, Kasper Lamar Dobbs, \_\_\_\_\_ of the  
Not Guilty/Guilty  
crime of being a felon in knowing possession of a firearm in and affecting commerce on or  
about May 22, 2003, as charged in Count 4.